

REMARKS

Claims 1, 3 to 11, 13 to 21, and 23 to 28 are pending in the application, of which claims 1, 11 and 21 are independent.¹ Favorable reconsideration and further examination are respectfully requested.

The claims were rejected under §101 for the following reasons:

2. Claims 11, 13-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter for the following limitations: *A computer program product for providing access to a software application comprised of an application core and version-specific functionality, the computer program product being tangibly embodied in an information carrier, the computer program product being operable to cause a machine to: enable access to the application core.* On page 19 of the specification discloses, a computer program can be written in any form of a programming language. Also, on page 19, discloses a computer program product that is tangibly embodied in a propagated signal for execution. A signal is merely software, a computer program product embodied on a propagated signal, is software that is stored on software. Software is non-statutory under 101. Correction is required; the Applicant must amend specification in order to take out a propagated signal. Further, the Applicant must amend the specification, to overcome 101, for a "computer program product". Which is merely software that is claimed. An example of how the Applicant can amend is that, "a computer program product that is executed within a computer for providing access" ...

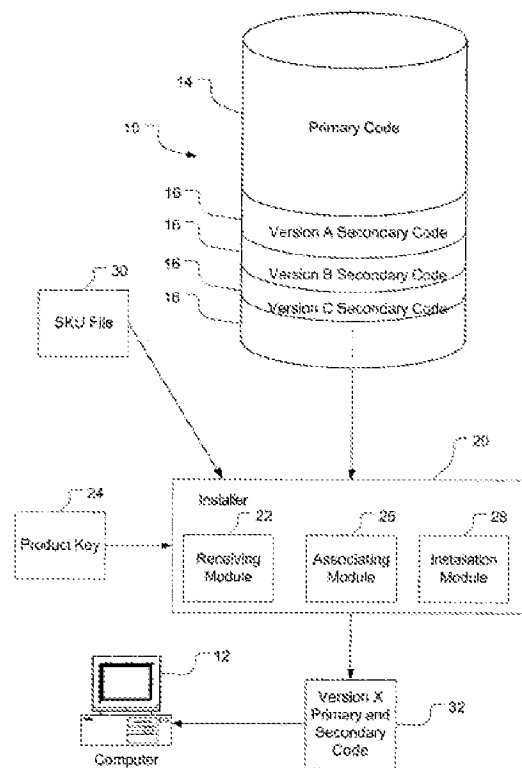
As shown above, the specification and claims have been amended. The language suggested by the Examiner has not been explicitly adopted. Rather, similar language, which is consistent with the claims, and which we believe to be in the spirit of what was requested, has been included in independent claim 11. Withdrawal of the §101 rejection is therefore respectfully requested.

¹ The Examiner is urged to independently confirm this recitation of the pending claims.

Claims 1, 3 to 9, 11, and 13 to 19 were rejected over U.S. Patent Publication No. 2005/0066324 (Delgado); claim 21 was rejected over U.S. Patent Publication No. 2003/0152904 (Doty); claims 10 and 20 were rejected over Delgado in view of U.S. Patent Publication No. 2005/0014121 (Eck); claims 23 to 26 were rejected over Doty in view of Eck; and claims 27 and 28 were rejected over Doty in view of Delgado. As shown above, we amended the independent claims. Withdrawal of the art rejections is respectfully requested.

The independent claims have been amended to specify that the module link is used by/usable by the application core to access to the version-specific functionality. The applied art is not understood to disclose or to suggest this feature of the claims.

Fig. 1 (below) shows the Delgado system.



As shown in Fig. 1, and as described in col. 2 of Delgado, the installer 20 controls installation of what the action appears to characterize as version-specific code. As explained in Delgado:

[0025] Also shown in FIG. 1 is an installer 20. Software for the installer 20 may be included on the data storage medium 10 as additional computer code, may be previously installed on the computer 12, or may be stored remotely, thereby controlling the installation of the software product via a network connection (not shown). A receiving module 22 is provided in the installer 20 for receiving a product key 24. The product key 24 identifies the version of the software to be installed and may contain validation information that validates the product key 24. The installer 20 includes an associating module 26 that identifies code in the storage medium 10 that corresponds to the version identified by the product key 24. The associating module 26 may perform this through the use of a SKU file 30 that contains information that associates the information provided by the product key 24 with versions of the software product on the storage medium 10.

The primary code, which the action appears to equate to the claim's application core, is stored in the same storage medium as the version code, and is retrieved at the same time as the version code, as explained in the following excerpt from Delgado:

[0026] The installer 20 also includes an installation module 28 that extracts from the storage medium 10 and installs on the computer system 12 the code 32 associated with the version identified by the product key 24 (i.e. the primary code and the secondary code specific to the version identified by the product key 24). The installation module 28 also may enable or disable certain behaviors depending on the version installed as dictated by additional behavior information provided in the SKU file 30. (emphasis added)

By contrast, in the claims, the module link is used/usable by the application core to access to the version-specific functionality. As a result, there is less of a need for separate code, such as the installer of Delgado, to access version-specific functionality.

Doty, which was cited against claim 21, is not understood to make up for the foregoing deficiencies of Delgado. The cited paragraphs of Doty are reproduced below.

[0085] In one embodiment, the system 10 includes a number of distinct components that provide a useful and engaging Internet based educational system 10. For example, FIG. 4 illustrates a schematic of an embodiment of four components of a network based educational system 10. The system 10 combines I) content, II) platform, III) delivery and IV) support in providing educational providers, instructors and students with a highly viable Internet based educational system 10. These four components working in close conjunction can be essential to the operation of the

system. For example, if the system included content, a platform and support, but no means of delivering the content to learners, then the system 10 would exclude an important functionality.

[0125] In an embodiment of a platform, certain hierarchical criteria can be implemented. Some typical hierarchical definitions include a system that is a unique instruct portal, the system having its own set of properties such as a main page URL, the initial page once logged in can either be created and hosted on our servers or hosted remotely, system contacts for: support, billing and administration. A system can typically have different versions and modules and a system has a unique DS, ID, and set of branding, as well as independent versions of any/all modules. A module is a particular feature that is independent of the system a module can be: "my courses", course guide, new user sign up, admin, schedule, message boards, framework (the actual look and feel "skin" of the system), file upload, related resources, help system and the like.

While these paragraphs disclose the concept of a "module" it is not clear from the reference itself, or from the text in the Office Action, what elements of Doty are equated to the claims' module link. It is assumed that the action is equating some element of Doty, Fig. 4 to the claims' module link (perhaps, "Delivery"?). In any case, there is no disclosure or suggestion that some element in Doty allows the application core itself to access to version-specific functionality.

For at least the foregoing reasons, claims 1, 11 and 21 are believed to be patentable.

Dependent claims are believed to define patentable features. Each dependent claim partakes of the novelty of its corresponding independent claim, in light of the foregoing amendments, and, as such, has not been discussed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant : Michael Altenhofen
Serial No. : 10/698,108
Filed : October 31, 2003
Page : 15 of 15

Attorney's Docket No.: 13909-055001
Client Ref. No.: 2003P00799 US

In view of the foregoing amendments and remarks, we respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Please charge any deficiency in fees or credit any overpayment to deposit account 06-1050, referencing Attorney Docket No. 13909-055001.

Respectfully submitted,

Date: November 19, 2008

/Paul A. Pysher/

Paul A. Pysher
Reg. No. 40,780

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945